



18 AUG 2005

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In re Application of	:	
SCHAAKE, Henk	:	
Application No. 10/510,376	:	
PCT No.: PCT/GB03/01524	:	DECISION ON PETITION
Int. Filing Date: 08 April 2003	:	UNDER 37 CFR 1.47(b)
Priority Date: 08 April 2002	:	
Attorney Docket No.: DEHN-01004US0	:	
For: OPTICAL CONTROLS	:	

This decision is in response to applicant's "Petition to Make Application for Patent on Behalf of and as Agent of the Inventor under 37 CFR. 1.47(b)" filed 01 August 2005 to accept the application without the signature of inventor, Henk Schaaake.

BACKGROUND

On 08 April 2003, applicant filed international application PCT/GB03/01524 which claimed a priority date of 08 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 October 2004.

On 05 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); copy of the international application; and a preliminary amendment.

On 29 March 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 01 August 2005, applicant filed the present petition under 37 CFR 1.47(b) and a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application

or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

Concerning Item (1), the petition fee has been submitted.

Regarding Item (2), a review of the present petition reveals that applicant has satisfied item (2), in that, the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Henk Schaake. The steps taken by John P. Tothill are sufficient to show that Henk Schaake has refused to execute the application.

Concerning Item (3), a statement of the last known address of the inventor has been provided.

Regarding Item (4), a declaration executed by Alan Cook, Director of Cliffgroup Limited, on behalf of the nonsigning sole inventor, Henk Schaake has been provided.

Concerning Item (5), petitioner has provided proof that applicant has sufficient proprietary interest in the application.

Regarding Item (6), applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.


CONCLUSION

The petition under 37 CFR 1.47(b) is GRANTED.

The application will be given an international filing date of 08 April 2003 under 35 U.S.C. 363, and a date of **01 August 2005** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.


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In re Application of
SCHAAKE, Henk
Application No. 10/510,376
PCT No.: PCT/GB03/01524
Int. Filing Date: 08 April 2003
Priority Date: 08 April 2002
Attorney Docket No.: DEHN-01004US0
For: OPTICAL CONTROLS

Dear Mr. Schaake:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

A handwritten signature in black ink, appearing to read "Anthony Smith".

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